

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

**IN RE: DIGITEK PRODUCT LIABILITY  
LITIGATION**

**MDL NO. 1968**

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**THIS DOCUMENT RELATES TO ALL CASES**

**DEFENDANTS' MOTION TO LIFT PTO #62 FOR SPECIFIC CONSIDERATION OF  
OF DEFENDANTS' MOTION FOR ENTRY OF A SCHEDULING ORDER**

Defendants Actavis Totowa LLC, Actavis Inc., Actavis Elizabeth LLC, Mylan Pharmaceuticals Inc., Mylan Bertek Pharmaceuticals Inc., Mylan Inc., and UDL Laboratories, Inc. (collectively "Defendants") respectfully move this Court to lift the stay under PTO #62 for the limited purpose of allowing Defendants to file "Defendants' Motion for Entry of a Scheduling Order" attached as Attachment A.<sup>1</sup> Defendants seek consideration of "Defendants' Motion for Entry of a Scheduling Order" and, ultimately, the entry of the proposed Scheduling Order before October 15, 2010. PTO #62, entered on August 12, 2010, stayed all discovery, motion practice, and scheduled hearings until October 26, 2010 to permit settlement negotiations. Defendants and Negotiating Plaintiffs' Counsel successfully negotiated and executed the Master Settlement Agreement (the "MSA") on September 1, 2010.

The MSA establishes an optional settlement program for cases pending in the MDL as of 11:59 p.m. on September 1, 2010; claims subject to tolling agreements; and, cases filed in state courts involving Digitek®. In particular, the MSA allows cases pending in the MDL as of 11:59 p.m. on September 1, 2010 to opt out of the MSA on or before 11:59 p.m. on October 15, 2010.

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<sup>1</sup> Defendants file this Motion without a supporting memorandum pursuant to L.R. Civ. P. 7.1(a)(2).

See also PTO #64. Plaintiffs who opt out of the MSA will continue to prosecute their cases in the MDL. Defendants, therefore, seek the entry of an order lifting the stay for the limited purpose of filing “Defendants’ Motion for Entry of a Scheduling Order,” which seeks the entry of a scheduling order governing the timely and efficient prosecution of the cases remaining after October 15, 2010. The “Brief in Support of Defendants’ Motion for Entry of a Scheduling Order,” included in Attachment A, is incorporated herein in support of this Motion.

For the foregoing reasons, Defendants respectfully request this Court enter the proposed order granting this Motion, attached as Attachment B, and deem as filed “Defendants’ Motion for Entry of a Scheduling Order,” attached as Attachment A.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2010, a copy of the foregoing “Defendants’ Motion To Lift PTO #62 For Specific Consideration of Defendants’ Motion for Entry of a Scheduling Order” was filed electronically. Notice of this filing will be sent to all parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

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